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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,882	09/28/2001	John S. Hendricks	026880.00019	2107
4372	7590	12/02/2005	EXAMINER	
ARENT FOX PLLC 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			TESLOVICH, TAMARA	
			ART UNIT	PAPER NUMBER
			2137	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/964,882

Applicant(s)

HENDRICKS, JOHN S.

Examiner

Tamara Teslovich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

This action is in response to Applicant's Amendments and Remarks filed August 18, 2005. Claims 1-9 have been cancelled, claims 10-20 are as previously presented, and claims 21-31 have been amended. Claims 10-31 are herein considered.

### ***Response to Arguments***

Applicant's arguments filed August 18, 2005 have been fully considered but they are not persuasive.

In response to Applicant's arguments concerning a lack of desirability to combine Seth-Smith and Fernandez. Fernandez provides us with specific information relating to the use of a portable book viewer retrieving information from a CD database, but clearly explains that the invention should not be limited to a CD database, but rather any portable device retrieving information from any mass storage device. This is where Seth-Smith comes into play with its subscription system in which individual decoders are enabled to receive messages specifically designated for them. Seth-Smith's system is nothing more than the use of personal user devices and a mass storage device, in this case a server, from which the user can request and receive messages and media for which they hold a subscription. It would be desirable for Seth-Smith's system to utilize the viewer of Fernandez in order to afford the user increased mobility and the ability to view texts and other multimedia, but only if they are authorized (have a subscription, etc) to view them.

In response to Applicant's arguments concerning Fernandez's failure to teach or suggest restricting access to electronic books stored in the viewer to a unique viewer that Examiner reminds the Applicant that it was Seth-Smith that was relied upon for these limitations. Fernandez was relied upon for its teaching of the use of a mobile personal device to access information stored in any mass storage device, and does teach in col.4 lines 15-20 the use of "handshaking protocols... as well as encoding and decoding protocols". It is the Applicant's contention that this refers *only* to the encoding and decoding protocols necessary for IR communication, but this is merely the opinion of the Applicant as he fails to provide any evidence or secondary passages that would suggest that that was in fact the case. In order to clear up any confusion, the Examiner has resorted to the 'Free Online Dictionary of Computing' in order to find definitions for Fernandez's "handshaking protocols" and "encoding and decoding". According to FOLDOC, "handshaking" is "the exchange of predetermined signals between agents connected by a communications channel to assure each that it is connected to the other (and not to an imposter). This may also include the use of passwords and codes by an operator". Next the Examiner did a search for "encode" and came up with "to encrypt, to perform encryption", which led me to look up "encryption" which came up with "any procedure used in cryptography to convert plaintext into ciphertext (encrypted message) in order to prevent any but the intended recipient from reading that data". These definitions support the Examiner's contention that the handshaking taught by Fernandez includes communication between IR devices in an attempt to authorize each other, communication which includes the exchange of passwords and codes to be used in

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later communication by the devices in order to prove their identities. In fact, those codes can then be used in the "encoding" step in order to "prevent any but the intended recipient from reading the data". Until the Applicant is able to provide evidence that the Examiner's reading of Fernandez is incorrect, the Examiner stands by the previous office action and its interpretation of the prior art.

In view of the arguments previous, Examiner respectfully disagrees with the Applicant's argument that there would be no reason to combine Fernandez and Seth-Smith, and that even if combined; their combination fail to disclose claims 13, 20, 24, and 31 in their entirety. The Examiner maintains the 35 U.S.C. 103(a) rejections corresponding to claims 13-15, 20, 24-26, and 31 as provided in the previous office action.

In response to Applicant's arguments concerning claims 10-12, 16-19, 21-23, and 27-30 and their rejection under 35 U.S.C. 103(a) as being obvious over Fernandez in view of Seth-Smith and Kudelski for the reasons previously stated regarding claims 13, 20, 24, and 31 above, the Examiner respectfully disagrees for the same reasons as given above. The Examiner maintains the 35 U.S.C. 103(a) rejections corresponding to claims 10-12, 16-19, 21-23, and 27-30 as provided in the previous office action.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Teslovich whose telephone number is (571) 272-4241. The examiner can normally be reached on Mon-Fri 8-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to be 'T. Teslovich', written in a cursive style.

T. Teslovich  
November 22, 2005

A handwritten signature in black ink, appearing to be 'Matthew B. Smithers', written in a cursive style.

**MATTHEW SMITHERS**  
**PRIMARY EXAMINER**  
*Art Unit 2137*